

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHANGQING SUN and YAN ZHAO,

Plaintiffs,

v.

ROBERT S. MUELLER, *et al.*,

Defendants.

No. C07-0083RSL

ORDER DISMISSING
CASE AS MOOT

This matter comes before the Court on “Defendants’ Response to Court’s Request for Particularized Information” (Dkt. #17). On September 18, 2007, the Court deferred plaintiffs’ motion for summary judgment and denied defendants’ motion to dismiss. See Dkt. #16. As part of this order, the Court requested that defendants “provide the Court with particularized information that explains the over two-and-a-half year delay as to plaintiff Sun’s name check.” Id. at 9. In response, defendants request that the Court dismiss this action as moot because “[o]n October 18, 2007, USCIS fully and favorably adjudicated both Plaintiff Sun’s and Plaintiff Zhao’s adjustment of status applications.” See Dkt. #17 at 2, Ex. A (I-797 Notices of Action).

Mootness is a defect in subject matter jurisdiction because federal courts are empowered only to hear cases and controversies. See U.S. Const. Art. III, § 2; DeFunis v. Odegaard, 416 U.S. 312, 316 (1974); Iron Arrow Honor Society v. Heckler, 464 U.S. 67, 70 (1983). “A case becomes moot whenever it loses its character as a present, live controversy of the kind that must

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1 exist if we are to avoid advisory opinions on abstract propositions of law.” Cantrell v. City of
2 Long Beach, 241 F.3d 674, 678 (9th Cir. 2001) (internal quotations and citation omitted). An
3 action is moot, and therefore no case or controversy is present, if after initiation of the action the
4 aggrieved party receives the relief sought in the complaint. See DeFunis, 416 at 317.

5 Under Fed. R. Civ. P. 12(h)(3), “Whenever it appears by suggestion of the parties or
6 otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the
7 action.” Here, the notices of action from USCIS show that plaintiffs have been granted the
8 relief requested in their complaint. See Dkt. #1 (Complaint). Accordingly, the issues presented
9 to this Court are no longer “live” and the Court DISMISSES plaintiffs’ complaint as MOOT.
10 See Murphy v. Hunt, 455 U.S. 478, 481 (1982) (“In general a case becomes moot when the
11 issues presented are no longer ‘live’ or the parties lack a legal cognizable interest in the
12 outcome.”) (internal quotation omitted).

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14 DATED this 2nd day of November, 2007.

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17 Robert S. Lasnik
18 United States District Judge
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